

# **DUCHESNE COUNTY**

## **PLANNING COMMISSION MEETING**

### **NOVEMBER 2, 2016**

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<b>REQUEST TYPE:</b>	Zoning Ordinance Text Amendment
<b>APPLICANT:</b>	Duchesne County
<b>PROPOSAL:</b>	Amend Zoning Ordinance to repeal Chapter 7 (Flood Damage Prevention) and replace it with a Flood Damage Prevention chapter that will enable Duchesne County to apply for participation in the National Flood Insurance Program
<b>LOCATION:</b>	County-wide
<b>ZONING DESIGNATION:</b>	N/A

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## **FINDINGS OF FACT**

### **1. PROPOSAL DESCRIPTION**

Duchesne County proposes to amend its zoning ordinance to repeal the current flood zone regulations and replace them with flood zone regulations that will enable the county to apply for participation in the National Flood Insurance Program (NFIP).

### **2. HISTORY OF EVENTS**

September 29, 2016	The application was submitted.
September 29, 2016	The application was deemed complete.
October 18 & 25, 2016	Notice of Hearings published in the Uintah Basin Standard
November 2, 2016	Planning Commission hearing
November 14, 2016	County Commissioner's hearing

### **3. ZONING ORDINANCE:** The procedure for considering amendments to the zoning map or text are set forth below:

## **SECTION 8-1-7: AMENDMENTS TO TITLE AND MAP:**

A. Application: A proposed amendment to this title and map may be initiated by any property owner, any person residing in the county, any business owner, the county commission, planning commission, board of adjustment or the county staff by filing an application for zoning ordinance and map amendment. **Findings: The applicant is Duchesne County.**

B. Notice of Public Hearings and Public Meetings:

1. The county shall give:

- a. Notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
- b. Notice of each public meeting on the subject.

2. Each notice of a public hearing under subsection B.1.a. of this section shall be:

- a. Mailed to each affected entity at least ten (10) calendar days before the public hearing;
- b. Posted:

- (1) In at least three (3) public locations within the county; or
- (2) On the county's official website; and

c. Published:

- (1) In a newspaper of general circulation in the area at least ten (10) calendar days before the public hearing; and
- (2) On the Utah public notice website at least ten (10) calendar days before the public hearing; or

(3) Mailed at least ten (10) days before the public hearing to:

(A) Each property owner whose land is directly affected by the land use ordinance change; and

(B) Each adjacent property owner within three hundred feet (300') of the boundary of the rezone area.

3. Each notice of a public meeting under subsection B. 1. b. of this section shall be at least twenty four (24) hours before the meeting and shall be posted:

a. In at least three (3) public locations within the county; or

b. On the county's official website.

4. a. If the county plans to hold a public hearing in accordance with section 17-27a-502 of the Utah code to adopt a zoning map or map amendment, the county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least ten (10) days prior to the scheduled day of the public hearing.

b. The notice shall:

(1) Identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(2) State the current zone in which the real property is located;

(3) State the proposed new zone for the real property;

(4) Provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(5) State that the owner of real property may no later than ten (10) days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(6) State the address where the property owner should file the protest;

(7) Notify the property owner that each written objection filed with the county will be provided to the municipal legislative body; and

(8) State the location, date, and time of the public hearing described in section 17-27a-502 of the Utah code.

c. If a county mails notice to a property owner in accordance with subsection B. 2. c. (3) of this section for a public hearing on a zoning map or map amendment, the notice

required in this subsection B. 4. may be included in or part of the notice described in subsection B. 2. c. (3) of this section rather than sent separately.

5. The planning commission shall consider all written objections received during their public hearing process and forward a copy of all such objections to the county commissioners.
6. The county commission is designated as the land use authority for zoning text or map amendments. The commission shall consider the proposed zoning ordinance text or map amendment and the recommendation of the planning commission pursuant to the procedures established by this section and Utah Code Annotated. The county commission may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. There is no minimum area or diversity of ownership requirement for a zone designation. Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or the invalidity of a county decision.

**Findings: The public notice requirements have been met by publication of the hearings notice in the Uintah Basin Standard on October 18 and 25, 2016, on the county website, posting in the county administration building and in the Utah Public Notice website. Planning Commission agendas are emailed to affected entities and interested parties one week in advance of the meeting.**

C. Criteria for Approval: In considering a proposed amendment to the zoning ordinance and map, the applicant shall identify, and the planning staff, planning commission and the county commission shall consider, the following factors:

1. The overall community benefit of the proposed amendment; **Findings: The amendments have been proposed to enable the county to apply for participation in the National Flood Insurance Program. The county applied for participation in the NFIP in 2005 and adopted a flood hazard ordinance; however, the ordinance was worded to become effective only after flood insurance rate maps were prepared for the county by the Federal Emergency Management Agency (FEMA). In 2005, the County was told that FEMA would provide such mapping for Duchesne County after more populated counties were mapped. However, after 11 years, the county has still not received flood zone maps and we now understand that the county will not be mapped and allowed to participate in the NFIP until the ordinance proposed today, and an accompanying resolution, are passed by the County Commissioners.**
2. Consistency with the goals and policies of the general plan; **Findings: The general plan does not specifically address flood hazards but does state that the County will maintain “zoning ordinances and development regulations consistent with the County’s overall development preferences and objectives.” The county desires that citizens be able to apply for federal flood insurance, even though such insurance may be expensive due to the lack of flood zone maps, based on the best available science. The proposed text amendment will address this development preference and objective.**

3. Compatibility with the neighborhood; **Findings:** **This criterion is not applicable in this case as the proposed zoning ordinance amendments are applicable county-wide; not just to a specific property or neighborhood.**
  4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted; **Findings:** **This criterion is not applicable in this case as the proposed zoning ordinance amendments are applicable county-wide; not just to a specific property or neighborhood.**
  5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties; and **Findings:** **The proposal is not for a zoning map amendment in which the change of use of the subject property could be analyzed for impacts on adjoining properties. Thus, this criterion is not applicable.**
  6. Consider the interest of the applicant. **Findings:** **The County is the applicant in this case and has an interest in amending its zoning ordinance to enable the County to participate in the National Flood Insurance Program. This will allow citizens to obtain federal flood insurance.**
- D. Effect of Amendment: An amendment to the zoning ordinance and map shall not authorize the development of land. After an amendment has been approved by the county commission, no development shall occur until the required development permits and licenses have been issued by the county.

### **CONCLUSIONS**

1. The request complies with the text amendment criteria in Section 8-1-7 of the Zoning Ordinance.
2. The request is valid.

### **RECOMMENDATION**

Recommended Motion:

I move that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Zoning Ordinance as set forth in proposed Ordinance #16-354.

Mike Hyde, AICP  
Community Development Administrator